

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

TERRANCE TOLES, )  
Plaintiff, )  
v. )  
OKLAHOMA DEPARTMENT OF ) Case No. CIV-17-150-SLP  
CORRECTIONS, et al., )  
Defendants. )

## ORDER

Plaintiff, a state prisoner appearing pro se, brings this action pursuant to 42 U.S.C. § 1983 alleging violations of his federal constitutional rights. The matter was referred to United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B)-(C) and Rule 72(b) of the Federal Rules of Civil Procedure.

On July 27, 2017, Judge Erwin issued a Report and Recommendation [Doc. No. 25] in which he recommended, pursuant to the Court's screening authority under 28 U.S.C. § 1915A(a)-(b), dismissal of several defendants and/or claims raised in the Amended Complaint [Doc. No. 23]. Plaintiff did not file an objection to the Report and Recommendation. Plaintiff did, however, file additional pleadings which were stricken in part, and construed, in part, as a supplement to the Amended Complaint. *See* Order [Doc. No. 35].

On November 27, 2017, Judge Erwin issued a separate Report and Recommendation [Doc. No. 39] in which he recommended, pursuant to the Court's screening authority under § 1915A(a)-(b), dismissal of additional defendants and/or claims raised in the Supplement

to the Amended Complaint. Judge Erwin further recommended denial of Plaintiff's Motion for Conditional Release Community Placement Federal CWC or Halfway House [Doc. No. 24], which he construed as a request for preliminary injunctive relief.

On December 26, 2017, Plaintiff filed a Motion [Doc. No. 42] and requested an extension of time to object to the R&R filed on November 27, 2017. Plaintiff advised the Court that he was currently incarcerated at James Crabtree Correctional Center in Helena, Oklahoma. He stated that the R&R had been mailed to his former place of incarceration, the Oklahoma State Penitentiary in McAlester, Oklahoma, and that he did not receive it until December 19, 2017. The Court granted Plaintiff's request, *see* Order [Doc. No. 43], and gave him until January 26, 2018 to file his objection.

In each of the R&Rs, Judge Erwin advised Plaintiff of his right to object to the findings set forth therein and further advised Plaintiff that failure to timely object would constitute a waiver of his right to appellate review of the factual and legal matters in the R&Rs. To date, Plaintiff has not filed an objection to either of the R&Rs, nor has Plaintiff requested any further extensions of the deadlines. Therefore, the Court finds Plaintiff has waived further review of the issues addressed in each of the R&Rs.<sup>1</sup>

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 25] is ADOPTED in its entirety.

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<sup>1</sup> Plaintiff is responsible for providing notice of any change of address to the Court. *See* LCvR 5.4(a) (requiring written notice of a change of address and further providing that papers sent by the Court are "deemed delivered if sent to the last known address given to the Court."); *see also Theede v. United States Dep't of Labor*, 172 F.3d 1262, 1267-68 (10th Cir. 1999) (pro se plaintiff who failed to provide any change of address waived right to review of report and recommendation by failing to make a timely objection).

IT IS FURTHER ORDERED that the Report and Recommendation [Doc. No. 39] is ADOPTED in its entirety.

IT IS FURTHER ORDERED that this matter is re-referred to Judge Erwin for further proceedings consistent with the initial case referral.<sup>2</sup>

IT IS SO ORDERED this 20<sup>th</sup> day of February, 2018.



SCOTT L. PALK  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> As set forth in the November 27, 2017 R&R, the following claims remain pending in this action: “(1) an individual-capacity monetary damages claim for retaliation against Defendant Crockett, which alleges three distinct forms of retaliation; and (2) individual-capacity claims for monetary damages against Defendants Crockett and Kays for intentional denial of Mr. Toles into a court-ordered drug treatment program in violation of Due Process.” *Id.* at 24.